

THE UNITED STATES DISTRICT COURT RECEIVED  
FOR THE DISTRICT OF SOUTH CAROLINA USDC CLERK, CHARLESTON, S

2008 NOV -7 A 12

## COMPLAINT

MICHAEL - COREY FLUKER

Enter the full name of the plaintiff in this action

v.

LESLIE SIMMONS AND THE OCONEECOUNTY SOLICITORS OFFICE.E. DELANE ROSEMOND.CPL. J.D. OWENS OF THE SOUTH CAROLINAHIGHWAY PATROL.

Enter above the full name of defendant(s) in this action

Civil Action No.

(to be assigned to Clerk)

9:08cv 3704- HFF-Bm

RECEIVED  
USDC CLERK, COLUMBIA, SC  
NOV -5 P 1:54

## I. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes ☒ No ☐

B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

## 1. Parties to this previous lawsuit:

Plaintiff: MICHAEL - COREY FLUKERDefendant(s): E. DELANE ROSEMOND2. Court: OCONEE COUNTY

(If federal court, name the district; if state, name the county)

3. Docket Number: 2007-CP-37-9394. Name of Judge to whom case was assigned: J. CORDELL MADDOX, JR.

5. Disposition: DISMISSED WITH PREJUDICE BUT CURRENTLY UNDER RECONSIDERATION  
(For example, was the case dismissed? Appealed? Pending?)  
MY CASE HAS BEEN UNDER RECONSIDERATION SINCE APRIL 2008

6. Approximate date of filing lawsuit: NOV. 20077. Approximate date of disposition: JAN. 2008I WAS TOLD I WAS GIVEN THE FASTEST PCR HEARING IN HISTORY



## IV. STATEMENT OF CLAIM

State here as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

OCT.

1. IN 2003 I WAS ARRESTED IN OCONEE COUNTY, S.C. AFTER POSTING BAIL  
I SENT IN THE FORM REQUESTING A PRELIMINARY, WHICH I WAS TOLD WAS MY  
RIGHT. I WAS SUMMONED TO COURT ON TWO SEPERATE OCCATIONS FOR THE HEARING  
BUT NEVER ~~RECEIVED~~ <sup>RECEIVED</sup> IT BECAUSE BOTH TIMES CPL J.D. OWENS DECLINED  
TO APPEAR. CPL. OWENS WAS THE ARRESTING OFFICER. I WAS TOLD THAT I  
WOULD BE ~~CONTACTED~~ <sup>CONTACTED</sup> AT A LATER DATE TO HAVE A HEARING BUT NEVER WAS.  
INSTEAD THE OCONEE COUNTY SOLICITORS OFFICE INDICTED ME BEFORE A GRAND  
JURY AND THEY DID THIS WELL AFTER 90 DAYS OF MY ARREST. ALSO THEY DIDN'T  
BRING ME BEFORE A JUDGE SO THAT I COULD HAVE MY DAY IN COURT UNTIL  
MARCH OF ~~2005~~ <sup>2007</sup>. WELL PAST THE 180 DAYS THAT THEY WERE SUPPOSED TO HAVE  
MY CASE DISPOSED IN.

2. AT THE TIME OF MY ARREST I BELIEVE THAT I WAS PULLED OVER FOR NO REASON  
AND THAT THE OFFICER ACCOMPANYING CPL. OWENS USED EXCESSIVE FORCE BY ATTACKING  
ME AND SLAMMING ME TO THE GROUND WITHOUT SAYING A WORD TO ME. CPL. OWENS  
REMOVED CERTAIN ITEMS FROM MY VEHICLE. THE ITEMS WERE VARIOUS SPORTS  
JERSEYS TOTALING OVER \$500. I PROTESTED WHEN HE SAID HE WAS TAKING THEM,  
BUT HE SAID THEY WERE EVIDENCE. I LATER FOUND OUT THAT THE ITEMS WERE  
NEVER INVENTORIED AND THAT CPL. OWENS NEVER ~~LISTED~~ <sup>LISTED</sup> THE ITEMS ON ANY EVIDENCE  
SHEET. I ALSO FOUND OUT THAT CPL. OWENS PURPOSELY PLACED HIS HAT IN FRONT  
OF THE DASH BOARD CAMERA OBSTRUCTING ITS VIEW DURING THE ENTIRE STOP. I BELIEVE  
HE PUPOSELY DID THIS TO CONCEAL HIS ACTIONS. I CONTACTED SLED AND INTERNAL AFFAIRS  
AND INFORMED THEM OF WHAT HAPPENED, AND ASKED THEM TO LOOK INTO IT AND TO CHARGE  
HIM WITH THE THEFT OF MY PROPERTY AND TO FIRE HIM. MY COMPLAINT WAS ANSWERED  
BY A MR. SHEPPARD GENERAL COUNSEL FOR THE S.C. DEPT. OF PUBLIC SAFETY. HE CLAIMED  
THAT MY PROPERTY WAS IN AN EVIDENCE LOCKER AND CONSIDERE THE MATTER CLOSED,  
BUT WITH THE ITEMS BEING INVENTORIED I HAVE NO WAY OF KNOWING IF ANY ITEMS  
ARE MISSING OR IF THE ITEMS IN FACT ARE MINE. SO I STILL CONSIDER THE ITEMS TO  
BE STOLEN.

IV. STATEMENT OF CLAIM - *continued*

3. In Feb. 2006 LESLIE SIMMONS INTRODUCED HERSELF TO ME AS THE NEW SOLICITOR HANDLING MY CASE. BY NOW I HAD BEEN COMING TO S.C. FOR ALMOST 2½ YEARS FOR ROLL CALL ONCE A MONTH. WHEN SHE ASKED ME IF I WAS HAVING ANY PROBLEMS I TOLD THAT I WAS STILL WAITING TO BE CALLED FOR MY PRELIMINARY HEARING. I TOLD HER THAT I WAS NOT RECEIVING NOTICES TO APPEAR FOR ROLL CALL IN A TIMELY ~~PERSON~~<sup>FASHION</sup>, AND I TOLD HER THAT MY ATTORNEY ON RECORD WHO WAS THEN DARREN HALEY AND NOT BEEN NOTIFIED ONCE BY THE COURT REGARDING A SINGLE MATTER CONCERNING MY CASE. SHE APOLOGIZED SAID SHE'D DO EVERYTHING IN HER POWER TO HELP ME AND ASSURED ME THAT FROM NOW ON MY ATTORNEY WOULD BE NOTIFIED ABOUT EVERYTHING. SHE EVEN SAID SHE'D HAVE ME NOTIFIED BY PHONE IF NEED BE. THE NEXT MONTH MARCH 2006 NEITHER I NOR MY ATTORNEY RECEIVED A NOTICE OR A PHONE CALL BUT MS. SIMMONS TOOK OUT A WARRANT FOR MY ARREST FOR FAILING TO APPEAR FOR ROLL CALL. WHEN I FOUND OUT ABOUT THE WARRANT I TURNED MYSELF IN. WHEN MY ATTORNEY CAME TO SEE ME HE SAID THAT HE TOLD HER THAT A MISTAKE MUST HAVE BEEN MADE BECAUSE WE WERE NOT NOTIFIED ABOUT THE ROLL CALL. SHE TOLD HIM SHE DIDN'T CARE IF A MISTAKE WAS MADE AND THAT IF SHE HAD ANYTHING TO DO WITH IT I WOULD SIT IN JAIL UNTIL I AGREED TO ACCEPT HER DEAL, WHICH WAS 8 YEARS FOR TRAFFICKING. MS. SIMMONS HAD ME SIT IN JAIL FOR 2½ MONTHS. DURING THAT TIME I GOT ANOTHER ATTORNEY DELANE ROSEMOND. MS. ROSEMOND HAD TO SAY VERY LITTLE WHEN WE WENT BEFORE THE JUDGE. THE JUDGE SAID HE DIDN'T ~~UNDERSTAND~~<sup>UNDERSTAND</sup> WHY THE WARRANT WAS NECESSARY BECAUSE I HAD BEEN ATTENDING ROLL CALL FOR 2½ YEAR AND SHOWED NO INTENTION OF TRYING TO RUN FROM THE CHARGES. MS. SIMMONS EVEN SAID THAT THE NOTICE "SHE" SENT TO ME CAME BACK MARKED RETURNED TO SENDER. SHE NEVER SHOWED ME THE NOTICE MARKED RETURNED TO SENDER, AND THAT WOULD HAVE BEEN THE FIRST TIME IN 2½ YEARS OF RECEIVING LETTERS AND NOTICES THAT I FAILED TO RECEIVE ONE. I CHECKED WITH THE CLERK OF COURT IN O'CONNOR COUNTY A MS. SALLIE SMITH AND SHE INFORMED ME THAT IF THAT WAS THE REASON FOR A WARRANT BEING TAKEN OUT FOR MY ARREST THAT IT SHOULD BE IN MY FILES. SHE SENT ME A LETTER STATING THAT NO NOTICE OR ANY OTHER CORRESPONDANCE FROM THE SOLICITORS OFFICE EXISTED IN MY FILE. MS. SIMMONS ALSO SAID THAT A LETTER WAS SENT TO MY ATTORNEY BUT COULDN'T EXPLAIN WHY HE NEVER GOT IT EITHER. THE JUDGE SAID HE DIDN'T LIKE WHAT WAS GOING ON AND ORDERED THEM TO RELEASE ME IMMEDIATELY.

4. MR. ROSEMOND WAS HIRED AS MY LAWYER IN AUG. 2006 AFTER MR. HALEX INFORMED ME THAT HE HAD SUED TROOPER OWENS AND OCONEE COUNTY IN THE PAST AND THAT THEY WERE GOING TO MAKE IT DIFFICULT FOR HIM TO REPRESENT ME. I HAD TWO MEETINGS WITH MR. ROSEMOND AND HE AGREED WITH ME THAT SEVERAL THINGS WERE WRONG WITH MY CASE. HE ALSO SAID THAT MY CASE WAS NOT BEING HANDLED PROPERLY BY THE SOLICITORS OFFICE WITH THE <sup>ALL</sup> EXTENSIVE TIME DELAYS. I AGREED TO HIRE MR. ROSEMOND ONLY AFTER HE AGREED THAT HE WOULD FIGHT TO DEFEND ME AND LOOK INTO CERTAIN MATTERS. MY PRELIMINARY HEARING, THE THEFT OF MY CLOTHES AND THE TIME DELAYS IN COURT <sup>PROCEDURES</sup> ~~PROCESSES~~. IN FACT IT WAS MR. ROSEMOND WHO DISCOVERED THAT CPL. OWENS USED HIS HAT TO OBSTRUCT THE VIEW OF THE DASHBOARD CAMERA. HE ALSO TOLD ME THAT HE WOULD PERSONALLY GO A CHECK THE EVIDENCE AGAINST ME. MR. ROSEMOND ADMITTED TO ALL THIS AT MY PCR HEARING, WHICH JUDGE MADDOX HAS TAKEN UNDER RECONSIDERATION AFTER RECIEVING THE LETTER I GOT FROM MR. SHEPPARD OF THE DEPT. OF SAFETY ABOUT THE ITEMS TAKEN FROM MY CAR. ANYWAY AFTER WEEKS OF SPEAKING WITH MR. ROSEMOND BY PHONE, EACH TIME HE WOULD TELL ME HE HADN'T LOOKED INTO ANY OF THE MATTERS WE DISCUSSED BUT <sup>HE</sup> ASSURED ME HE WOULD. FINALLY MY COURT DATE WAS SET IN MAR. 2007, WELL PAST THE TIME THAT IT SHOULD HAVE BEEN DISPOSED IN. ONE WEEK BEFORE MY COURT DATE MR. ROSEMOND CALLS ME AND TELLS ME THAT I SHOULD TAKE THE DEAL THE SOLICIOR WAS OFFERING. WHEN I ASKED HIM IF HE HAD LOOKED INTO ANY OF THE MATTERS WE HAD DISCUSSED HE SAID NO, THEN HE SAID THAT HE DIDN'T HAVE ANYTHING TO DEFEND ME AND THAT I HE WENT TO TRIAL HE NEEDED MORE MONEY.



THE DAY THEY SET FOR MY COURT DATE WAS MAR. 21, 2007. MY MOTHER AND I MEET WITH MR. ROSEMOND TO FIND OUT WHY HE HAD A CHANGE OF HEART AND NEVER LOOKED INTO ANY OF THE THINGS HE ASSURED ME HE WOULD. MR. ROSEMOND TOLD US THAT NONE OF THAT MATTERED. HE SAID THE LENGTHY DELAYS, THE FALSELY FILED WARRANT NONE OF THAT MATTERED. HE SAID I SHOULD ACCEPT THE FACT THAT THE OFFICER HAD PROBABLY STOLEN THE ITEMS HE TOOK FROM MY CAR. HE THEN SAID IT DIDN'T MATTER THAT CPL. OWENS DELIBERATELY PLACED HIS HAT IN FRONT OF THE CAMERA, HE SAID THAT WITHOUT THE VIDEO TAPE I COULDN'T PROVE THAT ANYTHING I SAID HAPPENED ACTUALLY OCCURRED. HE ALSO SAID THAT AFTER 3 YEARS THE PEOPLE THAT HAD WANTED TO SPEAK IN MY DEFENSE THAT I HAD BEEN SET UP HAD EITHER DISSAPPEARED, COULDN'T BE FOUND OR <sup>WOULD BE</sup> THEIR MEMORY ~~WAS~~ VAGUE ABOUT THE INCIDENT. I THEN ASKED HIM IF I WAS ENTITLED TO ANY RIGHTS LIKE THE RIGHT TO A FAIR TRIAL. HE SAID IN OCONEE COUNTY THEY DIDN'T CARE IF I GOT A FAIR TRIAL. HE SAID THAT BECAUSE I WAS BLACK, FROM OUT OF STATE AND ACCUSED OF A DRUG CHARGE THAT THEY WOULD AUTOMATICALLY FIND ME GUILTY AND SENTENCE ME TO 20 YEARS. HE SAID THAT SINCE I ADMITTED TO HAVING A SMALL AMOUNT OF MARIJUANA IN THE CAR I SHOULD GO AHEAD AND LET THAT BE THE REASON FOR ACCEPTING THE DEAL. HE SAID AT LEAST I'D BE HOME IN 3 YEARS COMPARED TO 20, EVEN THOUGH THIS WAS MY FIRST SERIOUS CHARGE AND THE FIRST TIME I WAS EVER CHARGED WITH A FELONY. ALL THIS HE ADMITTED TO AT MY PCR HEARING, BUT SAYS HE FEELS HE DID A GOOD JOB REPRESENTING ME BECAUSE HE GOT ME SUCH A GREAT DEAL. HIS DEAL WAS ONE YEAR LESS THAN THE DEAL THEY OFFERED MY FIRST LAWYER.

5.- THE OCONEE COUNTY SOLICITORS OFFICE WAS AWARE OF THE FACT THAT CPL. OWENS DELIBERATELY OBSTRUCTED THE VIEW OF HIS DASH BOARD CAMERA. THEY KNEW THAT IT WAS DONE TO HIDE HIS ACTIONS AND WRONG DOINGS, WHICH IS WHY THEY ~~FAKED~~ DIDN'T GIVE ME A PRELIMINARY HEARING WHEN I ASKED FOR ONE. THERE DELAYS ALSO MADE IT IMPOSSIBLE FOR ME TO HAVE A FAIR <sup>TRIAL</sup> ~~TRIAL~~. THEY EXCEED EVERY RULE OF COURT TIME LIMIT AS PROOF OF THIS.

- LESLIE SIMMON MISUSED HER POWER AND AUTHORITY TO FILE A WARRANT FOR MY ARREST BASED ON FALSE INFORMATION. SHE DID SO AFTER I INFORMED HER THAT WAS NOT RECEIVING NOTICES IN A TIMELY FASHION, AND THAT MY LAWYER WAS NOT BEING NOTIFIED AT ALL. I RECEIVED LETTERS AND NOTICES FROM OCONEE COUNTY FOR 2½ YEARS WITHOUT ANY PROBLEMS UNTIL I HAD TO DEAL WITH MS. SIMMONS. SHE SAYS NOTICE WERE SENT TO ME AND MY LAWYER, BUT NEITHER OF THEM ARRIVED. IF THE NOTICE TO ME CAME BACK RETURNED TO SENDER WAS THE REASON SHE FILED THE WARRANT FOR MY ARREST WHY DOESN'T IT EXIST IN ANY OF MY FILES. BECAUSE MS. SIMMONS IS A LIAR AND THE JUDGE THAT HANDLED THE WARRANT CASE KNEW IT WHICH IS WHY HE VACATED THE WARRANT AND HAD ME RELEASED.

- AT THE TIME OF MY ARREST I TOLD CPL. OWENS HE WAS SOMEHOW RESPONSIBLE FOR DRUGS BEING PLANTED ON ME. HE CLAIMS I HAD 5 POUNDS OF DRUGS IN MY CAR BUT THERE COULD HAVE BEEN ANYWHERE FROM 10 TO 100 POUNDS. THE FACT IS NO ONE WILL EVER KNOW EXCEPT FOR CPL OWENS WHICH IS WHY HE BLATENTLY PLACED HIS HAT IN FRONT OF THE CAMERA. AS FAR AS THE ITEMS TAKEN FROM MY CAR IT'S OBVIOUS THAT HE TOOK THEM AND HIS NOT INVENTORING THEM OR

LISTING THEM ON ANY EVIDENCE SHEET IS PROOF THAT HE INTENDED TO KEEP THE ITEMS. AS FAR AS THE ITEMS THE GENERAL COUNSEL SAYS THEY HAVE IN AN EVIDENCE LOCKER, I HAVE NO WAY OF KNOWING IF ANY OF THE ITEMS ARE MISSING OR IF THEY ARE IN FACT MINE AT ALL.

- AS FAR AS MR. ROSEMOND IS CONCERNED HE FAILED ME EVERY WAY POSSIBLE. NOT ONLY DID HE FAIL TO DO ANYTHING HE TOLD ME HE WOULD DO EVEN SWORE THAT HE WOULD, BUT MR. ROSEMOND BETRAYED ME AS A CLIENT AND WORKED WITH THE SOLICITORS OFFICE BY CONVINCING ME TO TAKE A PLEA AGREEMENT. MR. ROSEMOND KNEW THAT THE SOLICITORS OFFICE WAS VIOLATING MY RIGHT TO DUE PROCESS. HE ALSO KNEW THAT BOTH LESLIE SIMMONS AND CPL. OWENS HAD BOTH COMMITTED ILLEGAL ACTS. HE ALSO KNEW THAT I HAD VERY LIMITED KNOWLEDGE OF THE LAW. ALSO AT THE SAME TIME I HIRED MR. ROSEMOND, <sup>AUG. 06</sup> HE ALSO TOOK ANOTHER CLIENT WHO WAS LOCKED UP IN D CELL IN THE OCONEE COUNTY JAIL BY THE NAME JASON BENNETT. NOW I DON'T REMEMBER HIS EXACT CHARGE BUT I KNOW HE HAD AN EXTREMELY HIGH BOND AND HE TOLD ME AND OTHER PEOPLE THAT HIS SISTER HAD CALLED HIM BECAUSE SHE WAS FIGHTING WITH HER BOY FRIEND. HE GOT HIS GUN, GOT IN HIS TRUCK AND WENT TO WHERE SHE LIVED. WHEN HE GOT THERE HE GOT INTO A PHYSICAL ALTERCATION WITH THE BOYFRIEND AND HIS BROTHER WHICH RESULTED IN THE BOYFRIEND BEING SHOT DEAD. THE BOYFRIEND WAS AN ILLEGAL <sup>IMMIGRANT</sup> ~~PERSON~~ AND I WAS TOLD BY GUARDS AT THE OCONEE COUNTY JAIL THAT HE WAS RELEASED AND HIS CHARGES WERE DROPPED, NOW THE POLICE HAD EVIDENCE TO ARREST HIM AND HE KNOWINGLY BROUGHT A LOADED WEAPON INTO A VOLITALE SITUATION BUT HE WAS ALLOWED TO GO FREE



## V. RELIEF

State briefly and exactly what you want the court to do for you.

SENTENCING

I WOULD LIKE FOR MY ~~SENTENCING~~ TO BE OVERTURNED. I WOULD LIKE THIS FELONY CONVICTION REMOVED FROM MY RECORD AND I WOULD LIKE FOR MY CASE TO BE DISMISSED. I WOULD LIKE AN IMMEDIATE RELEASE FROM PRISON. I WOULD LIKE FOR LESLIE SIMMONS TO BE FIRED FROM HIS JOB WITH THE OCONEE COUNTY SOLICITORS AS WELL AS DISBARRED AND NO LONGER ALLOWED TO PRACTICE LAW. I WOULD ALSO LIKE E. DELANE ROSEMOND DISBARRED AND NO LONGER ALLOWED TO PRACTICE LAW. AND I WOULD LIKE CPL. JD. OWENS FIRED FROM THE SOUTH CAROLINA HIGHWAY PATROL AND CHARGED WITH THE THEFT OF MY PERSONAL PROPERTY. AND FOR MY INCARCERATION AND PAIN AND SUFFERING I WOULD LIKE TO BE COMPENSATED IN THE AMOUNT OF \$3,500,000 (THREE AND A HALF MILLION DOLLARS)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 21ST day of OCTOBER, 20 08.

M. Fluker

Signature of Plaintiff